



**FILED**  
JAN 19 2017

**PUBLIC MATTER**

**STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO**

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of	)	Case No.: 16-N-13638-LMA
	)	
<b>DERON ADAM KARTOON,</b>	)	<b>DECISION AND ORDER OF INVOLUNTARY</b>
	)	<b>INACTIVE ENROLLMENT</b>
<b>Member No. 155925,</b>	)	
	)	
<u>A Member of the State Bar.</u>	)	

**INTRODUCTION**

In this rule 9.20 proceeding, respondent DERON ADAM KARTOON, is charged with willfully failing to comply with California Rules of Court, rule 9.20(c) because he failed to file a declaration showing that he fully performed the acts specified in rule 9.20(a) in accordance with an order of the Supreme Court. Respondent failed to participate in this proceeding either in person or through counsel, and his default was entered. Thereafter, the State Bar of California's Office of Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to respond to the notice of disciplinary charges

<sup>1</sup> Except where otherwise indicated, all further references to rules are to the Rules of Procedure of the State Bar.

(NDC) and if the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting that the State Bar Court recommend the attorney's disbarment.<sup>2</sup>

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied and, therefore, grants the petition and recommends that respondent be disbarred from the practice of law.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on December 17, 1991, and has been a member of the State Bar of California since that time.

#### **Procedural Requirements Have Been Satisfied**

On June 16, 2016, the State Bar filed and properly served the NDC on respondent at his membership-records address by certified mail, return receipt requested. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) On June 16, 2016, the State Bar also sent a courtesy copy of the NDC to respondent at his membership-records address by first-class mail, regular delivery. The United States Postal Service (Postal Service) did not return, to the State Bar as undeliverable or otherwise, either the service copy of the NDC or the courtesy copy of the NDC.

On July 7, 2016, in an attempt to make sure that respondent has actual knowledge of this proceeding, the State Bar attempted to reach respondent by telephoning respondent and leaving him a voicemail message at his membership-records telephone number; by telephoning respondent at two alternative telephone numbers that the State Bar has for respondent; by sending respondent an email with a copy of the NDC attached to it at an email address that the

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<sup>2</sup> If the court determines that any due process requirements is not satisfied, including adequate notice to the attorney, it will deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(F)(2).)

State Bar has for respondent;<sup>3</sup> by performing two Internet searches for respondent; by mailing a courtesy copy of the NDC to respondent at an alternative address on Filbert Street in San Francisco (alternative address on Filbert Street), which the State Bar found for respondent during one of its Internet searches; and by telephoning and leaving a voicemail message for a man named Neil, who respondent had previously identified, to the State Bar, as a friend and an alternative contact resource. On July 11, 2016, the assigned Supervising Senior Trial Counsel (SSTC) received a voicemail message from and spoke on the telephone with respondent's friend Neil, who stated that he would attempt to contact respondent and attempt to have respondent contact the State Bar.

Respondent failed to file a response to the NDC. On July 12, 2016, the State Bar filed a motion for entry of respondent's default and properly served a copy of that motion on respondent at his membership-records address by certified mail, return receipt requested. At the same time, the State Bar sent a courtesy copy of the NDC to respondent at the alternative address on Filbert Street. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence from the SSTC detailing the additional steps the State Bar took in attempt to provide respondent with actual notice of this proceeding. (Rule 5.80.) The motion for default also notified respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment.

Respondent did not file a response to the motion for entry of default or to the NDC, and his default was properly entered on July 28, 2016. The order entering respondent's default was properly served on respondent at his membership-records address by certified mail, return receipt requested on July 28, 2016. On that same day, a courtesy copy of the default order was also

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<sup>3</sup> Effective February 1, 2010, all attorneys are required to maintain a current email address on record with the State Bar to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

mailed to respondent at the alternative address on Filbert Street.<sup>4</sup> The default order notified respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment. In its default order, the court also ordered that respondent be involuntarily enrolled as an inactive member of the State Bar of California in accordance with Business and Professions Code section 6007, subdivision (e).<sup>5</sup> In accordance with the default order, respondent was involuntarily enrolled inactive on July 31, 2016, and has been involuntarily enrolled inactive since that time.

Respondent did not seek to have his default vacated or set aside. (Rule 5.83(B)&(C)(1) [attorney has 90 days to file motion to set aside default].) On November 2, 2016, the State Bar filed a petition for disbarment after default and served it on respondent at his membership-records address by certified mail, return receipt requested.<sup>6</sup> As required by rule 5.85(A), the State Bar reported in the petition for disbarment that (1) respondent has not contacted the State Bar since his default was entered; (2) in addition to the present case, there are two disciplinary investigations pending against respondent; (3) respondent has three prior records of discipline; and (4) the Client Security Fund has not paid out any claims as a result of respondent's misconduct.

Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The court took the petition for disbarment under submission for decision on November 29, 2016.

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<sup>4</sup> Even though the Postal Service returned, to the court as undeliverable, the copy of the default order that was served on respondent at his membership-records address, the Postal Service did not return, to the State Bar, the courtesy copy of the default order that was mailed to respondent at the alternative address on Filbert Street.

<sup>5</sup> Except where otherwise indicated, all further statutory references are to the Business and Professions Code.

<sup>6</sup> Even though it was not required, it would have been appropriate for the State Bar to mail a copy of its petition for disbarment to respondent at the alternative address on Filbert Street.

### **Prior Records of Discipline**

Respondent has the following three prior records of discipline.

#### ***Kartoon I***

On May 5, 2015, the Supreme Court filed an order in case number S224720 (State Bar Court case number 13-O-14465), styled *In re Deron Adam Kartoon on Discipline (Kartoon I)*, placing respondent on two years' stayed suspension and three years' probation on conditions, including a thirty-day period of actual suspension and treatment for respondent's admitted drug abuse problem. In *Kartoon I*, respondent was found culpable of engaging in the unauthorized practice of law (UPL) while he was suspended for nonpayment of his membership fees (§§ 6068, subd. (i), 6106) and for failing to cooperate with the State Bar's investigation of his UPL (§ 6068, subd. (a)). No aggravating circumstances were found. Respondent was given significant mitigation for his more than 22 years without a prior record of discipline and was given slight mitigation for good character as attested to by four witnesses.

#### ***Kartoon II***

On November 17, 2015, the Supreme Court filed an order in case number S228886 (State Bar Court case number 14-O-02715), styled *In re Deron Adam Kartoon on Discipline (Kartoon II)*, placing respondent on two years' stayed suspension and three years' probation on conditions, including a sixty-day period of actual suspension. In *Kartoon II*, respondent admitted that he was culpable on two counts of willfully failing to obey court orders (§ 6103) because he failed to appear at two hearings on an order to show cause why he should not be held in contempt of court. In aggravation, respondent had one prior record of discipline (i.e., *Kartoon I*), committed multiple acts of misconduct, caused significant harm to the administration of justice, and failed to cooperate in the State Bar Court proceeding by failing to appear at two status

conferences and the pretrial conference. In mitigation, respondent stipulated to the facts and his culpability.

### ***Kartoon III***

On February 18, 2016, the Supreme Court filed an order in case number S224720 (State Bar Court case number 15-PM-15016), styled *In re Deron Adam Kartoon on Discipline* (*Kartoon III*), revoking respondent's probation in *Kartoon I*; suspending respondent for two years and until he established his rehabilitation, fitness to practice, and learning in the law in accordance with Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(c)(1); and ordering respondent to comply with California Rules of Court, rule 9.20.

In *Kartoon III*, respondent willfully violated his probation in *Kartoon I* when he (1) failed to give the State Bar's Office of Probation (Probation Office) a medical waiver; (2) failed to submit his first quarterly report due October 10, 2015; (3) failed to submit his selection of a drug abuse recovery program to the Probation Office for approval; (4) failed to submit his selection of a licensed medical laboratory to the Probation Office for approval; and (5) failed to submit, to the Probation Office, drug screening reports for the months of July, August, September, and October 2015. In aggravation, respondent had two prior records of discipline (i.e., *Kartoon I* and *Kartoon II*) and committed multiple acts of misconduct. No mitigating circumstances were found.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of a respondent's default, the factual allegations (but not the conclusion of law or the charges) in the NDC were deemed admitted and no further proof was required to establish the truth of such facts. (Rule 5.82(2).) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that respondent is culpable as charged and,

therefore, violated a statute, rule, or court order that would warrant the imposition of discipline.  
(Rule 5.85(F)(1)(d).)

**Case Number 16-N-13638 (Rule 9.20 Proceeding)**

Count One – respondent willfully failed to comply with California Rules of Court, rule 9.20(c) because he failed to file, with the Clerk of the State Bar Court, a declaration showing that he fully performed the acts specified in rule 9.20(a) in accordance with the Supreme Court’s February 18, 2016, order in case number S224720 (State Bar Court case number 15-PM-15016) (i.e., *Kartoon III*).<sup>7</sup>

**Disbarment is Recommended**

In light of the forgoing, the court finds that the requirements of rule 5.85(F) have been satisfied, and respondent’s disbarment is recommended. In particular:

- (1) the NDC was properly served on respondent under rule 5.25;
- (2) reasonable diligence was used to notify respondent of the proceedings prior to the entry of his default;
- (3) respondent’s default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

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<sup>7</sup> In the NDC, the State Bar inartfully refers to the Supreme Court’s February 18, 2016, order in case number S224720 as “Supreme Court Order no. S224720.” Such inartful pleading could have resulted in the dismissal of the present proceeding for lack of adequate notice because there are two Supreme Court orders in case number S224720 (i.e., one filed on May 5, 2015, and the other filed on February 18, 2016). However, the court finds that, notwithstanding the State Bar’s inartful pleading, respondent was given adequate notice of the charges against him in this proceeding because a copy of the Supreme Court’s February 18, 2016, order was attached to the NDC as exhibit 1.

Despite adequate notice and opportunity, respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

### **RECOMMENDATIONS**

#### **Disbarment**

The court recommends that respondent Deron Adam Kartoon, State Bar number 155925, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

#### **California Rules of Court, Rule 9.20**

The court also recommends that respondent be again ordered to comply with the requirements of California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

#### **Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

### **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Deron Adam Kartoon, State Bar number 155925, be involuntarily enrolled as an

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inactive member of the State Bar of California, effective three calendar days after service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: January 19, 2017.

  
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LUCY ARMENDARIZ  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on January 19, 2017, I deposited a true copy of the following document(s):

**DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

in a sealed envelope for collection and mailing on that date as follows:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

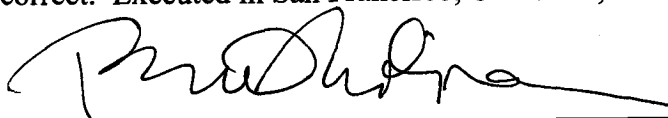
DERON A. KARTOON  
LAW OFFICES OF DERON A. KARTOON  
3 SIR FRANCIS DRAKE BLVD  
PO BOX 1403  
ROSS, CA 94957

COURTESY COPY:  
DERON ADAM KARTOON  
602 FILBERT STREET  
SAN FRANCISCO, CA 94133-2805

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

TREVA R. STEWART, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 19, 2017.



Bernadette Molina  
Case Administrator  
State Bar Court